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ABSTRACT

This study compares long-term retention from audio-tutorial instruction with common lecture-discussion retention. The population of the experiment was limited to students in two sections of a teacher education methods course. Through the use of a univariate statistical analysis in the framework of a split-plot factorial design, no significant differences or interactions were found in either learning gain or retention. An indirect result of the study did indicate that there was no significant learning loss in the subject matter (tort liability) used in the experiment. While measurement error indications restricted the researchers from making bold inferences, it may be stated that valuable teaching materials evolved from the preparation of the tort liability lessons. (Author)

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LONG-TERM RETENTION FROM AUDIO-TUTORIAL TEACHING

Report to the

UNIVERSITY RESEARCH GRANTS COMMITTEE

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Iowa State University of Science and Technology

COLLEGE OF EDUCATION

Ames, Iowa

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FOREWARD

This research project represents a team effort by faculty members within the College of Education: Dr. Anton Netusil, Educational Statistics, Dr. Lillian Schwenk, Safety Education and Research, Professor Albert Sherick, Industrial Education, and Dr. Roger Volker, Instructional Media. Dr. Duane Gimmel, Industrial Education, joined the team in November 1973 and directed the implementation and evaluation of the project. Contributions also were made by Dr. LeRoy Wolins from Statistics and Dr. Donald Schuster from Psychology. Three students also participated: Mr. Michael Simonson assisted with the development of media materials, while Mr. William Schoenenberger and Mrs. JoAnn Randall assisted with the monitoring of the A-T program and small group discussions.

The research project was conceived and the proposal written by the members of the faculty within the College of Education. Funds were made available from the University Grants for conducting the research activities.

The project sought to answer specific hypotheses. Essentially an attempt was made to systematically determine if long-term retention was different if audio-tutorial instruction were used as opposed to the traditional lecture-discussion method.

The subject area selected was tort liability. Behavioral objectives and lesson materials were developed for three instructional units, including test questions to measure student achievement level.

A univariate analysis applying to split-plot factorial design was used to measure differences of achievement.

The research team decided to construct all the materials, utilizing the expertise of the team in the formulation of objectives, production of instructional materials, and statistical evaluation. It was discovered very early in the project that much time, energy, and coordination efforts are required to conduct such team research.

While the results of the research efforts did not produce any break-through into insights about long-term retention and instructional methods to augment retention, the team became critically aware of the need for using reliable instructional materials, carefully constructed evaluation, and the chance factors of error in the research process when measuring pupil achievement.

The team members are appreciative of the opportunity provided them through the enabling research grants.

William Wolansky, Chairman
A-T Research Team

INTRODUCTION

The improvement of educational effectiveness and efficiency is a continuing struggle for educational institutions. The desire for educators and their associated educational institutions to discover the most efficient and economical means to comunicate the expanding area of education in this age of spiraling economics is increasing. Not only must institutions of higher education search for a better method of achieving educational attainment, but it is extremely important that such institutions ascertain what is the most effective method of instruction whereby students will retain what they have been taught.

Need For the Study

A review of the literature reveals that Ebbinghaus' 1885 theory of retention (3, 4, 7, 8, 9), ". . . that the amount retained dropped rapidly at first, then less and less rapidly, giving a negatively accelerated curve . . ." (4, p. 157) still is considered sound. Deese (3, p. 150) elaborates on the theory by indicating: "The rate of forgetting is greatest immediately after learning, and, thereafter, forgetting is relatively less. Under different conditions of testing and for the memorization of different kinds of materials, the absolute amount of retention will change, but the general form of the curve of retention will be about the same." Deese continues, "Absolute recall may decline to zero in a relatively short period of time, but nearly always one can discover some residual effects of previous learning by the savings method."

Stuck's dissertation (12) cites many references pertinent to the audio-tutorial method of instruction (1, 2, 5, 10, 11, 13, 14, 15, 16) which provide evidence of

the value of such an approach to learning. One study of college teaching (6), conducted at the University of Michigan, found no differences "in the three teaching methods" (12, p. 33): recitation, discussion, and tutorial, but stated that a major inadequacy of most such studies was failure to check on the differences in the students' retention of the knowledge.

Stuck concluded (12, p. 34) that any consideration of the teaching-learning process should consider the element of retention.

Purpose of the Study

The purpose was to ascertain if long-term retention from audio-tutorial instruction was different from the common lecture-discussion retention.

Objectives of the Experiment

Specifically, the objectives of the experiment were to ascertain if the experimental treatments of lecture-discussion and audio-tutorial had any significant effect on the long- or short-term achievement level of students in the subject matter area of tort liability.

Limitations and Scope of the Experiment

The population of the experiment was limited to students of Iowa State University who were enrolled in two sections of a teacher education methods course, Principles of Secondary Education, during the winter quarter of 1974.

Assumptions

For the purpose of the experiment, the following assumptions were made:

1. The scores received by students on the achievement examinations that were developed were valid and satisfactory indicators of achievement.

2. The factors not considered in the experiment were not of a significant nature.

METHOD

There are seven major divisions within this section: 1) development of instructional lessons, 2) the experimental design, 3) the treatments, 4) implementation of the experiment, 5) the measuring instruments, 6) treatment of the data, and 7) the statistical analysis.

Development of Instructional Lessons

Although the development of the audio-tutorial instructional lessons will be discussed only briefly, it should be noted that this task was perhaps the biggest and most time-consuming part of the project. The appendix contains Lessons I, II, and III with the associated worksheets.

The first step in the developmental process of the lessons was to identify the desired behavioral outcomes from the subject matter (tort liability) used in the study. Fifteen behavioral objectives were identified and arranged in an instructional sequence to take into account psychological and learning principles. Lesson I was designed to familiarize the student with the terminology used in tort liability, and to make the student aware of the teacher's classroom responsibilities as related to tort liability. Lesson II was developed upon a higher level of Bloom's taxonomy to allow the student to synthesize the pertinent information relative to tort liability. Lesson III was constructed to follow a pattern of reading case studies and requiring the student to respond to questions at the interpreting level of Bloom's taxonomy. All the lessons were based upon the established behavioral objectives from which associated script and picture frames were produced.

To make the lessons as relevant as possible, actual case histories were employed in Lesson III. Basically the case histories were designed to 1) illustrate the situation, 2) tell what happened, 3) ascertain if liability were involved, 4) let the student respond, 5) provide the correct answer, and 6) provide an explanation for the answer.

As indicated previously, the development of the instructional software took much longer than anticipated (from the spring of 1971 to the fall of 1973). The delay in the completion of the instructional materials was caused by many associated factors and some of these will be discussed in greater detail in the discussion section of this report.

The Experimental Model

The length of time consumed in the development of the instructional materials created problems in the implementation of the original proposed experimental design. Current class sizes and scheduling problems made it apparent that the experiment would have to be limited to the use of only one course, Education 426, Principles of Secondary Education. The use of one course not only provided the experiment with greater experimental validity, but also provided a seemingly better cross section of future educators.

The experimental design selected for the experiment was a split-plot factorial design. The design is depicted symbolically in Figure 1.

		Pre-test	Post-test	Long-Term Retention Test
Replication 1	Lecture	S_1	S_1	S_1
	A-T	S_2	S_2	S_2
	Both	S_3	S_3	S_3
Replication 2	Lecture	S_4	S_4	S_4
	A-T	S_5	S_5	S_5
	Both	S_6	S_6	S_6

Figure 1. Block diagram of the split-plot factorial experimental design.

Treatments

The control treatment lecture only

Within the control treatment, the same lecturer presented and discussed the three instructional lessons on tort liability within both classroom sections. The presentations were covered in two classtime periods in a straight lecture-discussion format.

The audio-tutorial treatment: A-T only

The subjects in the A-T treatment were exposed to the instructional lessons in the A-T format only. The lessons were in a filmstrip and tape presentation format in which the student could work at his own pace. The A-T student scheduled time (up to three hours) in which he could view and listen to the prepared material, seated in an individual carrel. The A-T student had a lesson worksheet form (see Appendix page 24) which served as a guide for the lessons. An instructional assistant also was available to answer any questions or to assist the student as necessary. After the worksheet was checked, the instructional assistant provided further discussion inter-

action with the student.

The combination treatment: lecture and A-T

The subjects in the combination group were responsible for both the lecture and A-T instructional sessions. After the subjects in this group had the lecture-discussion presentations, they also participated in the A-T treatment for instructional reinforcement.

Replication effect

Any differences that existed between the two instructional sections were classified as replication effect.

Implementation of the Experiment

For the experiment, two winter quarter 1975 sections of Education 426, Principles of Secondary Education, were used. The sections all met at 2:00 p.m. and the subjects were randomly assigned by computer to the respective sections. Section A originally had 42 subjects; Section B originally had 36 subjects.

Each instructional section was randomized further via a table of random numbers into one of the three experimental treatments: lecture, A-T, or lecture and A-T.

On the second day of class (Wednesday, November 28, 1973) both sections (replications) were pretested (see Appendix). To avoid the possibility of equipment overflow, the instructional replications were staggered by approximately two academic weeks. It should be noted that this time differential must be considered to be an associated part of the replication effect.

The post-test for both replications was given as part of the final examination for the course. Two participants dropped out of Education 426 and reduced the number

of participants to 79 at this point; the experimental mortality at the time of the post-test was approximately 2 1/2 percent.

The long-term retention test was mailed to the participants during the last week of spring quarter 1974 (May 15, 1974). About 30 percent of the returns were returned by June 10th and continued to be returned as a result of a follow-up mailing and telephone prodding until July 10th when 60 out of 79 returns were available.

Using June 20th as an average return date, approximately 152 days elapsed between the end of the A-T instruction and the long-term retention test for replication 2 and 187 days between the A-T instruction and the long-term retention test for replication 1. This provided an average of 169 days between the A-T instruction and the long-term retention test.

Measurement Indicator

The success or failure of the instructional treatments was based primarily upon the achievement level attained by the students. For this reason, care was taken to attempt to insure that the measurement indicator was a valid measure of achievement. The questions formulated were in direct relation to the behaviorial objectives established for each lesson.

The same examination was used as the pre-, post-, and long-term retention test (see Appendix). Since the examinations were not returned to the students, it was assumed that the test would not serve as a learning experience but primarily as an achievement evaluation instrument.

Table 1 provides the reader with a summary of the test and its associated reliability as calculated by the Kuder-Richardson Formula number 20. The reader

should note that the test seems to have satisfactory reliability for the post examination, but has questionable reliability as both a pre- and long-term retention indicator.

Table 1. The number of subjects and internal reliability of examinations used in this experiment.

Exam AS	Number of Subjects	KR-20 Reliability
PRETEST	81	.54
POST-TEST	79	.88
LONG-TERM	60	.32

Treatment of the Data

The informational data was collected, coded, placed on IBM cards, verified, and processed using the facilities of the Computational Center of ISU.

FINDINGS

The data in the experiment were analyzed to focus upon two main considerations: 1) sample validation, and 2) treatment analysis.

Sample Validation

The pretest scores were used as a criterion to ascertain if the randomization process had created equal cells at the beginning of the experiment. The following null hypothesis was tested for this purpose:

Null hypothesis 1: There were no significant differences between the treatment cell pretest score means. With reference to Table 2, the reader will note

that a non-significant F ratio of 0.428 was obtained by this completely randomized factorial analysis. Therefore, this hypothesis was not rejected and it was assumed that the randomization process established similar treatment cells prior to the conducting of the experimental conditions. Table 3 provides the reader with the means and standard deviations of the pretest scores for each of the treatment cells.

Table 2. Analysis of variance of differences in pretest scores of the instructional cells.

Source of Variation		Sum of Squares	Mean Square	F
Between Trts.	5	27.68	5.54	0.428
Error	54	698.66	12.94	
Total	59	726.43		
Table Value F (.05) =	2.40			

Table 3. Means and standard deviations of cell pretest scores.

	Replication 1		Replication 2	
	Mean	SD	Mean	SD
Lecture	21.6	2.50	21.6	4.17
A-T	23.4	4.40	22.8	4.10
Both	22.2	2.86	21.7	3.09

Treatment Analysis

At the beginning of the study, there was a total of 81 subjects in the experiment. Two students dropped the course and another 19 subjects did not return the long-term retention examination. Therefore, the experiment had a total subject mortality of twenty-one out of eighty-one, or experimental data on 74.1 percent.

To ascertain if the experimental treatments had any effect on the initial achievement level attained, the following null hypotheses were tested:

Null hypothesis II: There were no significant differences between the post-test means of the instructional treatments.

Null hypothesis III: There were no significant differences between the post-test means of the instructional replications.

Null hypothesis IV: There were no significant interactions between the instructional treatments and the replications, as indicated by the post-test raw scores.

A univariate statistical analysis was used to test the above hypotheses. As shown by Table 4 the data failed to reject null hypotheses II, III, and IV.

Table 4. Analysis of variance of the post-test raw scores.

Source of Variation	D.F.	Sum of Squares	Mean Square	F
Treatments	2	5.20	2.60	.143
Replications	1	.80	.80	.044
Interaction	2	.00	.00	.000
Error	54	981.82	18.18	

To further investigate if the experimental treatments had any significant effect on achievement the following hypotheses were tested:

Null hypothesis IV: There were no significant differences between the achievement gain score means of the instructional treatments.

Null hypothesis V: There were no significant differences between the achievement gain score means of the instructional replications.

Null hypothesis VI: There were no significant interactions between the instructional treatments and the replications when analyzed by the gain achievement score means.

As indicated by Table 5 the data failed to reject null hypotheses IV_2, V, and VI.

Table 5. Analysis of variance of achievement gain scores.

Source of Variation	D.F.	Sum of Squares	Mean Square	F
Treatments	2	17.43	8.72	.349
Replications	1	5.00	5.00	.20
Interaction	2	.00	.00	.00
Error	54	1,350.21	25.00	

To ascertain if the instruction in the area of tort liability did produce a significant knowledge gain in the subject area, the following null hypothesis was tested in a split-plot factorial analysis.

Null hypothesis VII: There was no significant difference between the pretest and post-test raw score means.

It also was of concern whether or not there was any significant interaction between the knowledge gain and the type of instructional method (lecture, A-T, or both). Within the above stated analysis the following null hypothesis was tested.

Null hypothesis VIII: There were no significant interactions between the method of instruction and the achievement level attained.

As shown by Table 6, null hypothesis VII was rejected. A clear gain of instructional knowledge is quite evident by the highly significant F ratio of 311.30. However, the data failed to reject null hypothesis VIII.

Table 6. Analysis of variance of the pretest, post-test raw scores.

Source of Variation	DF	Sum of Squares	Mean Square	F-Ratio
Treatments	2	2.28	1.14	3.00
Replications	1	1.84	1.84	4.83
Error	2	.76	.38	
Learning	1	221.02	221.02	311.30**
Learning x Treatments	2	.87	.44	.62
Error	3	2.14	.71	

One of the major objectives of the experiment was to determine whether the retention level of the students would be significantly different as a result of the methods of instructional treatments. To analyze this factor, a univariate analysis was performed in a split-plot framework using the raw post-test and long-term retention test scores. Specifically the following hypotheses were tested:

Null hypothesis IX: There was no significant difference between the post-test and long-term retention test mean scores.

Null hypothesis X: There were no significant interactions between the method of instruction and the learning level retained.

Null hypothesis XI: There was no significant difference between the replication means of the post-test and long-term retention test raw scores.

Null hypothesis XII: There was no significant difference in the cell means of the instructional treatments of the post-test and long-term retention test means.

Table 7 indicates that the data failed to reject all null hypotheses IX, X, XI, and XII. It should be noted at this point that there was NOT a statistical significant learning loss between the time of the post-test and the long-term retention test.

Table 7. Analysis of variance of post-test long-term retention test raw scores.

Source of Variance	DF	Sum of Squares	Mean Square	F
Treatments	2	.71	.35	.40
Replications	1	.33	.33	.37
Error	2	1.76	.88	
Learning level	1	10.08	10.08	9.50
(Level treatment)	2	1.45	.73	.70
Error	3	3.15	1.05	

To double check this analysis, hypotheses IX, X, XI, and XII were restated as follows in a gain score format:

Null hypothesis XIII: There was no significant difference between the post-test and long-term retention mean gain (loss) scores.

Null hypothesis XIV: There were no significant interactions between the method of instruction and the mean gain (loss) scores.

Null hypothesis XV: There were no significant differences in the cell means of the instructional treatments of the gain (loss) scores.

Null hypothesis XVI: There were no significant differences in the cell means of the instructional treatments of the gain (loss) score means.

Table 8 indicates that none of the hypotheses XIII, XIV, XV, and XVI could be rejected which substantiated the failure to reject null hypotheses IX, X, XI, and XII.

Table 8. Analysis of variance of post-test and long-term retention gain scores.

Source of Variation	DF	Sum of Squares	Mean Square	F ratio
Treatments	2	2.282	1.141	.724
Replications	1	.003	.003	.000
Error	2	3.152	1.576	
Test	1	10.083	10.083	9.640
(Test) (Treatments)	2	1.452	.726	.694
Error	3	3.138	1.046	

Table 9. Mean and standard deviations for treatment cell raw scores.

		Mean	SD	Mean	SD	Mean	SD
Replication 1	Lecture	21.6	2.50	32.20	4.02	28.23	3.56
	A-T	23.4	4.40	30.90	5.02	28.90	5.26
	Both	22.2	2.86	31.01	4.50	28.90	3.67
Replication 2	Lecture	21.6	4.17	29.60	4.06	28.20	3.35
	A-T	22.8	4.10	31.30	3.62	29.50	2.37
	Both	21.7	3.09	27.70	3.59	30.00	2.05

Table 10. Mean gain-retained scores.

		Short Term Gain	Long Term Retained	Learning loss (-) or gain
Replication 1	Lecture	10.6	6.7	-3.9
	A-T	7.5	5.5	-2.0
	Both	8.9	6.7	-2.2
Replication 2	Lecture	8.0	6.6	-1.4
	A-T	8.5	6.6	-1.8
	Both	8.0	8.3	+ .3
Combined	Lecture	9.3	6.7	-2.6
	A-T	8.0	6.1	-1.9
	Both	8.5	7.5	-1.0

There are three main areas for discussion: 1) experimental implications, 2) experimental limitations, and 3) recommendations.

Experimental Implications

In the discussion of the implications, it is essential that the groups for the experiment be similar. Sample validation statistics indicated that the groups were not significantly different at the beginning of the experiment. This assumption was made because a very low F-Ratio was attained in the analysis of the pretest scores. It should be realized, however, that the reliability of the pretest measurement indicator was lower (.54) than desired.

The data showed no significant difference in either the level of attainment or the level of retention as a direct result of the varied instructional treatments. It is interesting to note that there was NOT a significant statistical loss of achievement from the post-test examination to the long-term retention examination. This has substantial implications, but could be the result of either of two factors: 1) a concern for and the associated reinforcement of the subject matter, or 2) measurement error.

Tort liability is of continuing concern for present and future educators who constantly are reminded of their responsibilities in this area by the media, educational associations, colleagues, and others. Law suits are filed daily against school boards, educational institutions, educators, and other school employees. The reality and practicality of an educator's knowledge in the area of tort liability constantly is dramatized and reinforced in the everyday life of present and future educators. The associated influence of these factors may have led to the achievement level retained in the subject matter area.

Another factor which may have contributed to the non-significant statistical difference between the learning loss of the post-test and the long-term retention test was that of measurement error in the teacher-made examinations.

It was the belief of the researchers that although the statistical reliability of the long-term retention test (which also is subject to measurement error) was very low, the logic of subject matter reinforcement seems to be more attestable. The researchers feel that the retention curve of educational knowledge perhaps is a direct function of reinforcement and application. This should have direct implications in the subject matter taught in educational institutions.

Administrative Limitations

A number of difficulties were experienced in maintaining momentum of the study over the long period of time required for conceptualization, production, and field-testing. Suggestions for future interdisciplinary work of this sort might include (1) realistic assessment of specific contributions each team member could make, (2) necessary allocations of released time for certain team members in key positions on the research project, (3) assignment of graduate assistants or other personnel to assist in implementing plans for completing the research.

Inferential Limitations

As indicated earlier, direct inferences from the study must be made with caution because of the possibility of measurement error. However, it was felt that the experiment has shed some light on the relationship between learning retention, reinforcement, and application, and further may be stated that the study did produce valuable teaching materials in tort liability.

Recommendations of the Study

To reap the full benefit of educational research, it must be made the base for further research. Thus, the following recommendations are made:

1) Measurement indicators for educational research should be tried and true indicators. Weak measurement indicators will produce experimental data from which inferences can not be made.

2) This experiment should be replicated in a different subject matter area with a tried and true measurement indicator.

3) Time must be made available for research. When individuals are already overly committed, it is difficult to maintain their desired level of excellence. Undue hardship does not contribute to positive results.

4) Teams must be chosen carefully to ensure input.

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APPENDIX

THE TEACHER AND LIABILITY

Lesson I

The Teacher and Liability

Objectives for Lesson I

1. List in correct order the 8 immediate obligations imposed on a teacher when an accident occurs.

2. Accurately define and give an example of each of these terms:

abrogate	liability
accident	malfeasance
attractive nuisance	misfeasance
concede	negligence
contributory negligence	nonfeasance
foreseeability	proprietary function
in loco parentis	reasonable and prudent
last clear chance	tort

3. List the 2 requirements for a legally qualified teacher as defined by the Iowa State Department of Public Instruction.

4. Explain why foreseeability is necessary if a teacher is to qualify as being reasonable and prudent.

5. List at least 5 qualities a teacher should identify in his students to guarantee a "reasonable and prudent" student.

6. Choose two terms and explain their relationship to the first 6 obligations (Objective 1) by discussing a specific example of your own, in one paragraph.

This is a 3-part unit on school law. Each of these lessons is in a new format called Audio-tutorial. You'll get information from a tape and slides rather than a text.

You'll work in this study carrel, with a teaching machine that has a . . .

. . . filmstrip, with pictures on a small screen.

In addition to the screen and filmstrip, a description of each frame is recorded. . .

. . . on a cassette tape. If you want to stop the system at any time, you can push . . .

. . . the stop button. Volume of the sound is controlled with this . . .

. . . knob. Of course, to prevent disturbing others, you'll hear the sound through earphones.

To aid you in reviewing, as well as actively involve you in the lessons, we'll ask you to write answers on the worksheet from time to time.

An audio-tutorial lesson, then, is a program you control. You pace it to fit your learning style. Feel free to stop the tape at any time. In fact, you should stop the tape . . .

. . . and review what we've talked about. Experiment with the equipment. If you have trouble, ask for help. Now, stop the tape and review.

All set? Then we're ready to start. The first lesson in the unit is about school law and the teacher.

It talks about your legal responsibilities as a teacher. Before we get into the lesson, let's glance at the other two lessons in the unit.

The second lesson is concerned with the school's legal responsibilities. And the third. . .

. . . asks you to apply what you've learned. In a series of actual case histories . . .

. . . we'll ask you to make judgments about who is liable for what.

One more word about the system. We'd like to check frequently on your progress. We think you want it that way, too. To do this . . .

. . . we'll give you a pre-test to establish entry-level ability and as a check-point to measure your progress when completed.

We'll give you the behavioral objectives for each lesson. These are skills you should be able to exhibit after completing the lesson and the tests will be constructed from these same objectives. In other words . . .

. . . if you can accomplish these objectives--you'll pass with flying colors. Our system then consists of . . .

. . . a series of instructional frames, with "question breaks" ever so often. If you get hung up, you'll want to back-track by rewinding the tape and setting the filmstrip back a few frames.

The questions will help you decide whether you need to review or proceed.

After the instruction we'll ask you to take a short test. If you pass, you can go on to lesson 2.

Now you're ready for Lesson I . . .

. . . The Teacher and School Law.

You may not like to think it can happen, but accidents will occur. You have 8 immediate obligations, as a teacher, when an accident occurs.

Look at this list of 8 obligations on your worksheet. You'll need to memorize them before the lesson is over because Objective 6 makes use of this information.

Now, to illustrate these steps, your first task is to keep order. This may mean calming the group . . .

. . . directing traffic . . .

. . . or keeping onlookers away.

Now, stop the tape and think of an example of your own that illustrates this first task, keeping order. Write it on the worksheet.

Second obligation--ascertain extent of injury or damages. This means you should check breathing . . .

. . . and bleeding, as well as pulse, and look for broken bones.

Third--give immediate care to the injured. If possible, send someone for help . . .

. . . while you cover the injured person. Make him comfortable, but . . .

. . . DON'T MOVE HIM. (Remember your first aid.)

The fourth thing to do is notify the proper school authorities. They will inform a doctor, law officer, and parents.

If it's after hours, or you can't get in touch with the school officials, you may have to call the doctor, police, and parents yourself.

After these four steps, you should secure the scene. It might mean turning off electricity . . .

. . . putting up a "no Admittance" sign . . .

. . . or any other action that guarantees no more accidents can occur at the scene.

Then--as your 6th step--you should get names and statements from witnesses.

Let's review. Cover the top half of your worksheet. Then write the first 6 obligations, in proper order. Turn off the tape and do that now.

Now check yourself. If you listed the 6 steps in the correct order, proceed. If not, review them now before you go on.

There are two more obligations you have: to file an accident report in the school office, and follow up on the status of the injured person.

To work through this lesson, you'll need to know what these terms mean. The information here is essential for meeting your responsibilities. And it may protect your rights.

After you've learned the terms, we'll ask you to apply them in some examples. We will be talking in these terms throughout the lessons, so that's another reason they're valuable to you.

Look over the definitions for the terms now. When you've got them in mind, we'll give you some examples. Turn off the tape and study the definitions.

Now--for some examples. You probably can define "accident"--that's unfortunately a common situation. But what about liability?

If you're liable, you'll have to pay damages in money, or work, which takes your time. A lien may be put against your wages. Inheritance may be taken from you to pay for the damages. The property you own also may be taken to pay for damages, if you are liable.

To establish liability you must be proven to be negligent. If you are negligent, you are liable.

Three terms--malfeasance, misfeasance, and nonfeasance, pertain to the teacher's performance.

If you struck and injured a student, you are guilty of malfeasance.

Even though some states permit spanking a child (Florida even specifies the type of "Legally Acceptable" paddle) you might be guilty of misfeasance if you carry it to excess.

Lack of supervision of school-owned equipment may make you guilty of nonfeasance.

Before you go on, turn to the work-sheet and write your own examples for each of the first 6 terms. If you have difficulty, review the definitions.

The examples above imply a reasonable and proper attitude on the part of the teacher. For instance, if you plan a

field trip, you'd want to take certain steps demonstrating . . .

. . . wise judgment, and foreseeability. This would be reasonable and proper. A note sent home to parents telling them where the class was going, how long the class would be gone, and who the chaperones would be shows foreseeability on the teacher's part.

Even with these precautions, dangerous events still may occur. In this case you must use the last clear chance to prevent an accident.

Contributory negligence means you've contributed to the hazard by being negligent. Exposed wires, for instance, may give someone a shock.

They constitute an element without which an accident would not have occurred.

Teachers, then, have a great deal of responsibility--some of the same responsibilities as parents. They act in place of the parents.

Except--all rights and privileges of parents are denied the teacher

Even after taking all of these precautions you still may have a hazard in your classroom. Like the swimming pool or treehouse in your back yard, a number of attractive but hazardous situations may exist in connection with your teaching environment.

Think about some of the attractive nuisances in your teaching situation. They might be . . .

. . . a power saw . . .

. . . a car with keys in the ignition . . .

. . . or chemicals in a laboratory.

Turn off the tape again and list an example of your own for terms 7 through 12. Review the definitions on the worksheet if you have difficulty.

To summarize--these examples deal with tort liability--legal wrongs committed on the person or property of another. It's the kind of liability you have to know how to handle as a teacher.

The remaining three terms often are used in discussions of school law. For example, a law may be abrogated.

That is, it may be repealed by a legislative body.

A school may carry on a number of proprietary functions during the year. These include any activities that are conducted for financial profit.

Do you concede that you're ready to write examples of terms 13-16? The last term--concede--simply means "acknowledge." Turn off the tape and complete the worksheet, writing examples of the last 3 terms.

With these definitions and examples in mind, we're ready to continue. The next step is to look at the two requirements for certification as a legally qualified teacher.

Requirement 1. The teacher must have a valid teaching certificate.

Requirement 2. The teacher must have an approval statement that specifically qualifies him for teaching in his subject area.

Review these two qualifications. Then turn off the tape and write them on the worksheet.

Check yourself. Thes[illegible] the correct answers.

Now we're going to ask you to do some writing. We'd like you to explain the relationship between foreseeability, and reasonable and prudent. Review the definitions of these terms on page 2 of the worksheet.

Think of an example in teaching in which foreseeability would make it obvious that you were reasonable and prudent. Use the space on the worksheet.

We can't give you a definite "right" or "wrong" on this one; your instructor will have to check this. Everyone who answers this will have a different example.

The reasonable and prudent characteristic plays a central role in the concept of tort liability. To meet our 5th behavioral objective we'd like you to think about this trait. It applies to students as well as to teachers.

For example, a student should be

willing to abide by rules. Horseplay and "messing around" are not reasonable and prudent characteristics. A student should . . .

. . . take care of his equipment, and be responsive to suggestions from the teacher.

Make a list of 5 characteristics you believe students should possess to show they have an attitude and judgment that is reasonable and proper. Turn off the tape and do that now.

You'll have to ask your instructor to check your list, since it will vary great deal from one person to another.

We're getting close to the end of Lesson 1. Your final task is to relate selected terms to the obligations a teacher has. Review the terms and the obligations before you go on. Stop the tape now.

Ready? Choose two of the terms, and comment briefly about their significance and relationship to the first 6 obligations of a teacher. To refresh your memory, review the first 6 obligations on page 1 of the worksheet. You may wish to ask your instructor for advice before you begin. Turn off the tape now.

This completes Lesson 1. Make a final check of your worksheets. Feel free to go back over any portions of the lesson you feel need reviewing.

As you review for the test on this lesson, look over the behavioral objectives carefully. Match them to your worksheet for the test will be based on the behavioral objectives.

Before you leave reset the filmstrip at the starting point. Then rewind this tape. That's all.

THE TEACHER AND LIABILITY

Lesson I Worksheet

The 8 obligations imposed on a teacher when an accident occurs are:

1. Keep order
2. Ascertain extent of injury or damages
3. Give immediate care to injured
4. Notify the proper authorities
5. Secure the scene
6. Get names and statements from witnesses
7. File a report
8. Follow-up

Describe a situation in which you would meet a primary obligation--keeping order--in case of an accident.

_____

_____

_____

Review

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Definitions of terms.

1. ACCIDENT: an event which takes place without one's foresight or expectation; an unexpected event which results in death, injury or property damage. [All accidents are the result of environmental hazards and/or unsafe behavior.]

2. LIABILITY: being held legally responsible for damages; an obligation that is enforceable by court action.

3. NEGLIGENCE: [The key to liability] the failure to act as a reasonably prudent person would act under the specific circumstances involved. [Education gives one knowledge of foreseeability beyond that of the ordinary reasonable and prudent adult.]

4. MALFEASANCE: the performance of an illegal act, such as corporal punishment.

5. MISFEASANCE: the improper performance of a lawful act, such as excessive spanking.

6. NONFEASANCE: the failure to perform a legal duty, such as "no supervision."

7. REASONABLE AND PRUDENT: suitable behavior equal to that which may be expected from similar individuals given a similar set of circumstances.

8. FORESEEABILITY: the ability to anticipate and thus prevent through prudent action; the ability to anticipate danger from a given set of circumstances.

9. LAST CLEAR CHANCE: the final opportunity to prevent injury to another who, through his own negligence, has placed himself in a dangerous situation.

10. CONTRIBUTORY NEGLIGENCE: the failure to exercise ordinary care to prevent an accident subsequently sustained through actionable negligence of another. [An element without which the accident would not have occurred.]

11. IN LOCO PARENTIS: one who acts in place of the parent and assumes responsibility for the child.

12. ATTRACTIVE NUISANCE: any unguarded, dangerous contrivance, apparatus, building, or condition of land which a child may be expected to use or on which he is likely to play.

13. TORT: legal wrong committed on the person or property of another.

14. ABROGATE: to repeal a former law, by legislative act.

15. PROPRIETARY FUNCTION: as applied to a school, an activity conducted for financial profit.

16. CONCEDE: acknowledge.

Examples illustrating each of the first 6 terms.

	Term	Example
1.		
2.		
3.		
4.		
5.		
6.		

Examples illustrating terms 7-12.

7.		
8.		
9.		
10.		
11.		
12.		

Examples illustrating terms 13-16.

13.		
14.		
15.		
16.		

The two requirements for being legally qualified as a teacher:

(1) _____

_____

_____

(2) _____

_____

_____

Write a paragraph citing an example in which your foreseeability would make it obvious that you were reasonable and prudent.

List five characteristics that you believe a student would exhibit if he had an attitude that was "reasonable and proper".

1. _____
2. _____
3. _____
4. _____
5. _____

THE SCHOOL AND LIABILITY

Lesson 11

THE SCHOOL AND LIABILITY

Objectives for Lesson II

1. Determine whose responsibility it is to remedy unsafe conditions or prevent unsafe acts.
2. Determine the defense against the charge of negligence arising from an injury through the use of personally-owned equipment.
3. Given an illustration of school situations with unsafe conditions portrayed: identify the unsafe conditions, acts, or situations.
4. Draft a policy related to use of school and non-school-owned equipment, including a sample contract between teacher and school board.

We aready looked at the teacher and liability in Lesson I. Now we're ready to see what the school's liability might be.

Before you begin, look over the four behavioral objectives for this lesson. Notice that you'll be asked to analyze school situations for . . .

. . . potential accident situations as well as . . .

. . . examine school board minutes and be prepared to draft a model policy for use of personally-owned equipment.

There are three levels of tort responsibility involving each of the three elements of a school system. They are arranged here in order of increasing responsibility. We'll be studying the responsibilities of each in this lesson.

In other words, regarding tort liability, the teacher usually is the most responsible person, and the school board is least responsible.

One reason for this is that the teacher is the one who has direct contact with the students. Secondly, a certified teacher legally is judged to be competent. The third reason is related to past history.

As a public corporation, the school is in the same category as a kingdom. During the middle ages a popular common-law ruling . . .

. . . held that the king could do no wrong. This common-law reasoning is still in effect today, except we say that . . .

. . . the school (or any public group) can do no wrong. The state generally is immune from legal suit for tort liability.

To get some background on the school board's responsibility, stop the tape and study worksheet #1 carefully. The language is similar to what you'd find in a book of laws or state code.

You probably noted the 7 sections of this worksheet. Some important concepts outlined include these:. . .

1. LEGISLATION IS NECESSARY TO ABROGATE A COMMON-LAW RULE.

2. PURCHASE OF INSURANCE DOESN'T CONSTITUTE A WAIVER OF A SCHOOL BOARD'S IMMUNITY.

3. SINCE A SCHOOL BOARD ENJOYS A COMMON-LAW IMMUNITY, LIABILITY USUALLY FALLS BACK ON THE TEACHER.

Now let's look at the administrator's responsibility. Study the 9 points. . .

. . . on the worksheet. Turn off the tape now.

You may have noted these three particularly important points in studying the worksheet.

1. THE TEACHER USUALLY IS THE DEFENDANT.

2. THE ADMINISTRATOR OFTEN IS MORALLY BUT NOT LEGALLY RESPONSIBLE.

3. HIRED ADMINISTRATORS WHO ARE EMPLOYEES OF A SCHOOL BOARD MAY BE HELD LIABLE. ON THE OTHER HAND, ELECTED ADMINISTRATORS ARE PUBLIC OFFICERS AND AS SUCH ARE IMMUNE.

While these are important points, do not overlook the other information on the worksheet. You will need it for the test.

Now, let's look at the teacher's responsibility. You'll need to refer to the worksheet again.

Turn off the tape and do that now.

In addition to other important points discussed, you probably noted these . . .

1. THE RESPONSIBILITY FOR PREVENTING STUDENT INJURY RESTS ON THE TEACHER IN CHARGE, RATHER THAN ON ADMINISTRATION OR THE SCHOOL BOARD.

2. EACH EMPLOYEE OF THE SCHOOL IS RESPONSIBLE FOR HIS OWN NEGLIGENCE.

3. THE TYPE OF PUPIL (AGE, MATURITY, INTELLIGENCE) DETERMINES THE DEGREE OF CARE REQUIRED OF THE TEACHER TO PREVENT ACCIDENTS.

The next segments of this lesson are cases involving teachers' requests to use their own equipment.

An industrial arts teacher is in trouble because a student was injured while using a metal lathe. According to the teacher, the school board is partially responsible because they authorized the use of the teacher's own lathe.

But the board says it didn't. To clarify the issue you'll have to check the minutes of the Denver County School Board for February and March, 1971.

Stop the tape now and study the school board minutes.

What do you think? Is Mr. Stone responsible for the accident, or did the school board assume the responsibility? Write your analysis of the case on the worksheet.

Stop the tape and write your answer.

You probably noted that the board gave its approval for the teacher's use of his lathe, thus they were liable for its use.

To meet behavioral objective #3, we'll ask you to study two large drawings. The first one shows a school yard--the second . . .

. . . is an interior view of a combination classroom/laboratory. In the worksheets you'll find a list of potential hazards for each case.

Study the conditions listed, then list the hazards you find in each drawing. Refer to each hazard by its coordinates, using a letter and a number. Then describe the hazard.

We'll hold off answering this one. Check with your instructor--and discuss the hazards you found.

To finish this lesson, you'll need to draft a policy related to use of equipment in school. In order to help you work out such a policy, study the last few worksheets. You'll find . . .

. . . a summary of teacher liability . . .

. . . guidelines for writing a contract. . .

. . . and a sample contract.

This completes Lesson II. Make a final check of your worksheets. Feel free to go back over any portions of the lesson you feel need reviewing.

As you review for the test, look over the behavioral objectives carefully for the test will be based on them.

Before you leave reset the filmstrip at the starting point. Then rewind the tape. That's all.

THE SCHOOL AND LIABILITY

Lesson II Worksheet

The school board's responsibility.

1. Every individual is responsible for his own torts but a school board usually is not liable for its own negligent acts since it is a governmental entity and, as such, is immune from tort action.

   The courts of a few states have interpreted the school board's governmental immunity less broadly than have the courts of most states where the traditional common-law immunity rule still prevails with strict application. A few states have abrogated this common-law immunity by statute; but the courts in these several states have differed in the degree of liberality with which such statutes are interpreted.

2. One may ask the reason for the common-law ruling against holding quasi-public corporations liable for their torts. The basis lies in the common-law reasoning during the Middle Ages in England: first, the king can do no wrong; second, the state represents the king and therefore can do no wrong. Being infallible, the state cannot be sued without its consent. The state therefore is immune from legal suit for tort.

   The school district is a division of the government; the school board, an arm or agency of the state.

   The school board therefore is immune to tort action especially since education is a governmental function of the school district.

3. School districts are immune from liability for injuries sustained through the negligence of their officers and employees in the exercise of their governmental functions, except:

   a. When there has been an active wrongdoing as opposed to mere negligence.

   b. When the municipal function in which the injury occurred is proprietary as opposed to governmental. School districts seldom have prorietary functions. Ball games and other sports events at which an admission fee is charged still are within the realm of governmental functioning. Collection of tuition in a public college does not make the operation of college a proprietary function. The operation of a school lunchroom in which non-school people may eat IS a proprietary activity, especially if the food is not sold at cost.

4. Abrogation of the common-law rule can be achieved only through legislation.

5. Even in some of the common-law states, however, legislation has been enacted which requires safe construction and maintenance of buildings; many of these statutes include public buildings which would include school buildings. This type of legislation generally is called a SAFE-PLACE STATUTE.

   Even when school buildings are included within the coverage of a safe-place statute, it is likely that the courts in common-law states will construe the statute as narrowly as possible so as to prohibit suits unless expressly and clearly within the coverage of the legislation. There are a few school laws which specifically require that school playgrounds be kept in safe condition, but without such a law the safe-place statute may be interpreted to cover buildings only and not the grounds around them.

6. Safe-place coverage in many states is inadequate to protect pupils from injuries caused by defective construction or maintenance of school property. In this area the school board's responsibilities are not clear.

7. It may be suggested that liability of the school board may be implied from other legislation such as the authorization to purchase liability insurance for its school buses, or to use school funds to purchase accident insurance for its athletes.

   Authorization to purchase insurance of any kind does not of itself constitute a waiver of the school board's immunity.

The administrator's responsibility

1. Rarely is the administrator charged with legal responsibility for pupil injuries,--neither the superintendent of the entire school system nor the principal of the particular school in which the accident occurred. Pupil injury actions usually make the classroom teacher in charge or the school board itself defendants.

2. The administrator who is in charge of a building or one who arranges the classroom teachers' schedules may be morally responsible for the lack of proper supervision which may be the proximate cause of the injury.

   A number of accidents occur because of inadequate supervision. The principal is the agent of the school board and it usually is the school board which is charged with negligence because of inadequate supervision. These cases have turned on the circumstances of the individual injuries, not upon the person responsible for arranging the supervision. It has been said that the responsibility, if anyone's, for preventing pupils from injuring each other rests upon the teacher in charge rather than on either the administrator or the school board. The responsibility of the school board and the administrators ends when competent teachers are selected; thereafter the responsibility rests upon the teachers concerned.

3. The administrator who gives permission is not legally responsible if the classroom teacher was competent and the administrator ascertained that the teacher would be present during the activity.

4. The line of authority does not impose liability upon the administrator unless he directs the teacher to do some act which is in itself dangerous to pupils and results in pupil injury.

5. When injury is caused by defective equipment, it is the building principal who should have actual or constructive notice of the defect; when the injury is caused by inadequate playground supervision, the inadequacy of the supervision frequently exists because of arrangements made by the building principal.

6. The issue has not been decided since the administrator's legal responsibility for pupil injuries never has been discussed by the courts to an extent that would make possible the elucidation of general principles.

7. The administrator's moral responsibilities must be conceded.

8. In any set of circumstances in which an administrator himself negligently caused a pupil injury, his position would be no different from that of a negligent teacher since each individual is responsible legally for the results of his own negligence.

9. City superintendents frequently serve as secretary or executive officer of the school board; they are not public officers in the same sense as elected county superintendents. An elected county superintendent, being a public "officer", might not be liable for the results of his negligence in office. A city superintendent might be liable because of his status as an employee of the school board rather than as a public officer.

The teacher's responsibility

1. The responsibility for preventing pupils from injuring each other or themselves rests upon the teacher in charge rather than upon the administration or the school board. The responsibility of the board and the administration ends when competent teachers are hired.

2. Even when a teacher has been given authority to conduct some activity which results in pupil injury, the administrator who gave the permission is not legally responsible if the classroom teacher was competent and the administrator ascertained that the teacher would be present during the activity.

3. Classroom teachers are more closely related to pupil activities than any other members of the school staff and are more often named as defendants in cases alleging negligence which resulted in injuries to pupils.

4. Each employee is responsible for his own negligence. If a teacher is negligent, he is legally responsible and is subject to the payment of damages out of his own pocket.

5. The principles of negligence and liability are of utmost importance to teachers, especially those connected with activities in which some danger is inherent. For example, shop teachers, home economics teachers, teachers of science who supervise laboratory work, driver education teachers, physical education teachers, and coaches of sports are in positions which make them more subject to allegations of negligence for pupil injuries than teachers of academic subjects; in elementary schools and ungraded country schools classroom teachers supervise playground games during recess periods and have this additional responsibility; injuries sometimes are inflicted on one pupil by another; a teacher in any school may find it necessary on occasion to leave the classroom to attend to duties elsewhere, leaving the class unsupervised for a time.

6. Absence from the classroom for a few minutes generally is not likely to be interpreted as negligent lack of supervision, especially if the teacher's absence was connected with the performance of duty. However, no teacher ever should leave an area when power equipment is in operation. Absence of over an hour, however, constituted lack of supervision for which the district was held liable in a recent New York case.

7. Misconduct of some pupils may cause injuries to others. Some injuries which the teachers cannot anticipate are sustained by pupils when playing games. No liability would be assessed in this circumstance. Some injuries occur because of negligent omissions to regulate conduct of pupils with respect to known acts or practices of pupils from which, with reasonable exercise of prudence, the teachers should have anticipated that injuries were likely to occur. Liability arises here because of the negligent omission of regulation. THIS IS THE APPLICATION OF THE TEST OF FORESEEABILITY.

8. Misconduct of pupils in a class for incorrigibles has been held to be outside the teacher's responsibility since the misconduct of pupils in this kind of class might have occurred regardless of the teacher's presence or absence. On the other hand, however, it could have been argued that the teacher of any incorrigible would be required to exercise even more than ordinary care in supervision to prevent such misconduct.

9. The age, maturity, intelligence, and previous conduct of pupils have a bearing upon the degree of care required of teachers to prevent accidents causing pupil injuries.

10. The type of activity in which the pupil injury occurs also has a bearing upon the teacher's liability.

EXHIBIT: Denver County School Board Minutes

February, 1971

Meeting was called to order at 8:00 p.m., February 20, 1971, by President Anderson.

Minutes of the January 20, 1971, meeting were read and approved.

The Treasurer's report was read and approved.

It was moved by Mr. J. C. Doser that the item of a salary raise for the teachers be either approved or disapproved. Seconded by Mr. W. A. Holloway. Motion carried. The teacher's salary committee was asked to state its position. The following recommendation was made by the committee:

The entire faculty be given a 20 percent raise. This recommendation was supported by the following facts:

1. Cost of living was up 8.5 percent.
2. The cost of social security and health insurance had been increased 2.5 percent.
3. The increase of city, state, and federal income tax was 9 percent.

"In order for the teachers to maintain the same purchasing power for the next year, it is imperative that this 20 percent pay raise be granted". After a great deal of discussion, it was moved by Mr. W. A. Holloway that discussion of teacher's salaries be postponed until the next board meeting and that a public survey be made to determine acceptance of such a salary raise. Seconded by board member Mrs. J. W. Prichard. Motion carried.

It was moved by Mrs. J. W. Prichard that the next item to be discussed was the purchasing of equipment for South High School. Seconded by Mr. J. C. Doser. Motion passed.

It was moved by Mrs. W. L. Gable that the $20,000 worth of equipment needed for the chemistry and physics laboratories be approved. Seconded by Mr. A. L. Calta. After a short discussion the motion passed.

It was moved by Mr. A. L. Calta that new lights for the football field be purchased. Total cost--$8,000. Seconded by Mr. J. C. Doser. After a lengthy discussion the motion passed.

It was moved by Mr. W. A. Holloway that a new $1,400 metal lathe be purchased for the industrial arts metal laboratory. Seconded by Mrs. J. W. Prichard. After a lenghty discussion, the motion was defeated.

Mr. Stone, the industrial arts teacher, was granted permission to make a special request of the board. Mr. Stone requested permission of the board to bring in his own metal lathe and that he be given permission to use this lathe until such time as the board saw their way clear to buy a metal lathe. Mr. W. A. Holloway

moved that permission be granted to Mr. Stone to bring in his own metal lathe. Seconded by Mrs. J. W. Work. After a lengthy discussion it was moved by Mr. J. C. Doser to postpone this motion until the next meeting. The board will look into the ramifications of such a move. Seconded by Mr. A. L. Calta. Motion carried.

It was moved by Mr. J. C. Doser that the $18,000 worth of equipment needed for the electricity-electronics laboratory be purchased. Seconded by Mrs. J. W. Prichard. After a brief discussion the motion passed.

It was moved by Mr. W. A. Holloway that the $8,000 worth of gymnastics equipment be purchased. Seconded by Mr. J. C. Doser. After a lengthy discussion it was moved by Mrs. J. W. Prichard to postpone discussion of this equipment until the next board meeting. Seconded by Mrs. W. L. Gable. Motion to postpone carried.

It was moved by Mr. W. A. Holloway that the meeting be adjourned. Seconded by Mrs. W. L. Gable.

Motion Carried.

Meeting adjourned at 12:45 a.m.

February 17, 1971

March, 1971

Meeting was called to order at 8:00 p.m., March 21, 1971, by President Anderson.

Minutes of the February meeting were read and approved.

The Treasurer's report was read and approved.

It was moved by Mr. W. A. Holloway to continue the discussion on teacher salaries. Seconded by Mrs. W. L. Gable. Motion carried. The results of the survey of the school district was presented. The results indicated that over two-thirds of the district voters were in favor of a raise in teacher's pay, but that 20 percent was out of line and a 10 percent raise strongly favored. After a great deal of discussion by the board and salary committee representing the teachers, it was moved by Mr. W. A. Holloway that the original motion be amended to read -- deleting the words, "or disapproved", and adding, "in the amount of a 12 percent raise for all teachers making less than $9,000 and a 10 percent raise for all teachers making $9,500 and over". The amendment was seconded by Mr. J. C. Doser. After a short discussion the amendment was passed. Following a lengthy discussion between the board and the salary committee, the original motion as amended was passed.

It was moved by Mr. W. A. Holloway that the postponed motion dealing with the use of Mr. Stone's personal metal lathe be brought up for discussion. Seconded by Mrs. W. L. Gable. Motion carried. It was reported to the board that it would be alright for them to grant permission for Mr. Stone to bring in his own metal lathe providing the metal lathe was in excellent condition. After a short discussion, the motion dealing with M . Stone's metal lathe passed.

It was moved by Mrs. J. W. Prichard that the board continue the discussion of the purchase of the $8,000 worth of gymnastic equipment. The motion was seconded by Mr. J. C. Doser. Motion passed.

It was moved by Mrs. J. W. Prichard that the purchase of the $8,000 worth of gymnastic equipment be purchased. Seconded by Mr. A. L. Calta.

It was moved by Mrs. W. L. Gable that the meeting be adjourned. Seconded by Mr. J. C. Doser. Motion carried.

Meeting adjourned at 2:00 a.m., March 22, 1971.

Your analysis of liability in the Denver County case:

List of common hazards related to a public school:

bicycle ridden on playground
fire escape
defective door
horizontal bar
15-foot swing
tackle when playing football
glass in sand
ramp on parking
head-standing exercise
football on street
running-jump somersault
touch football
power saw without guard
no instructions on equipment
scaffolding on building under construction

unguarded gears in shop machine
chemicals
defective slide
electrocuted
slippery floor
skylight
field trips
sand pit construction for broad jump
bayou or natural ditch
slate slab
protruding nail in wooden sidewalk
running machine while removing metal scrap
unlighted or poorly lighted stairs without handrails
worn floor covering
faulty construction of buildings causing part of structure to fall
a door without a door-check
door unusually heavy
faulty grate in the ventilator system
the trap door under the grate
shrubbery around school buildings
protruding water cutoff boxes
uneven pavements
depressions
clinkers
piles of rubbish
surface of the playground
step elevated above ground level
glass panel in the door
flagpole support on playground
playground equipment
door mat not firmly fixed
no cross walk
water cut-off box
elevator shaft
gap in handrail
exterior stairway without handrail
gun being repaired in school shop

Identification of hazards in a school yard:

Coordinates		
Letter	Number	Description of Hazard
____	____	_____
____	____	_____
____	____	_____
____	____	_____
____	____	_____
____	____	_____
____	____	_____
____	____	_____
____	____	_____
____	____	_____

Hazards in classroom/laboratory:

____	____	_____
____	____	_____
____	____	_____
____	____	_____
____	____	_____
____	____	_____
____	____	_____
____	____	_____
____	____	_____
____	____	_____

Summary of conditions related to teacher liability:

1. Dangerous or obsolete tools or equipment have no place in the school shop.
   a. All shop equipment should be inspected regularly.
   b. Guards or safety devices never should be removed from machinery that is to be operated.
   c. If a machine is not operating properly, its use should be discontinued until repairs can be made.
   d. All equipment should be properly guarded and maintained.
2. All accidents, no matter how trivial, that occur in the shop should be reported, including:
   a. Complete details.
   b. Names of witnesses.
3. Legally, the existence of printed safety rules alone cannot be considered as a defense against gross negligence unless proof can be offered that each student understands and observes the rules.
4. Teachers always should set the correct example in safe practices.
5. Before a student uses tools and equipment within the shop, complete instructions should be given, including particularly good safe practices.
6. When tasks are to be performed outside the school shop, they may prove to be hazardous. Sending students to perform such tasks should be avoided as such students are without proper supervision.
7. In the event of an accident, the teacher should be completely familiar with established procedures for taking care of accidents.
8. Dangerous workers should not be permitted to remain in the class.
9. The absence of the teacher from the shop while pupils are in the shop could constitute nonfeasance.
10. Pupils should not use equipment in the shop which has not been approved by the Board of Education.
11. Do not permit pupils to work in the shop other than during the regularly scheduled periods and never without acceptable supervision.
12. Do not permit pupils not enrolled in shop classes to use power equipment.
13. Do not make the use of all power tools compulsory.
14. Never allow pupils, especially those prone to accident, to use power machines. Some physical and mental conditions make a pupil ineligible to use certain power tools.
15. Keep written reports of every accident occurring in the school shop, regardless of how seemingly insignificant.

16. Administer safety tests and retain records and results of such satisfactorily passed tests as defense in suits charging negligence.

17. Keep in mind that pupils are children and that the actions of children normally are guided by childish impulses. It is the teacher's duty to use much care in anticipating or foreseeing the results of such impulses and prevent avoidable injury.

18. Failure of the teacher to realize that the ordinary care mentioned above is defined by law as greater caution in conduct when one is dealing with children than with adults. Children do not think, act, or avoid danger as adults would. Danger even may attract them.

19. Realize that the law demands from children less care for their own safety than it demands from adults. The measure of care in this instance is the care usually shown by children of like age, intelligence, and experience in similar situations. Children may take risks that adults will shun.

Contract guidelines:

A contract is an agreement enforceable at law made between two or more persons by which rights are acquired by one or more acts or forbearances on the part of the other or others.

Requisites of a contract:

1. Two or more persons required for its existence;
   there must be distinct communication between the parties of their intent, as well as an offer and an acceptance by both parties.

2. Must define a common intention;
   it is required by law that there is presence of certain evidence of the intention of the parties to affect their legal relations. A "form" or a "consideration" is the type of evidence required.

3. Parties involved must communicate their common intent to one another;
   in order to make a valid contract the capacity of the parties must be taken into consideration.

4. Legal relations must be referred to by the intention of both parties;
   the offer and acceptance must express a genuineness in the consent.

5. Parties themselves must be affected by the consequences of the contract;
   it also must take into consideration the legality of the objects affected by the contract.

Sample contract:

The Board of Education of Jefferson County has approved the following information dealing with the use of public school equipment and privately owned equipment within the classrooms of the aforesaid school district:

1. Public school equipment can be used only in the classroom or within the school to which it is assigned, unless the equipment is so designated to travel between schools and to be used by other schools within the district.

2. No privately-owned equipment may be used by any teacher within any classroom or on any school ground without the express consent of the school board. The request for its use must be presented to the school board at a regular school meeting, acted upon, and approved before the equipment may be used.

Write your contract here:

YOU BE THE JUDGE

Lesson III

YOU BE THE JUDGE

Objectives for Lesson III

1. Determine the 2 major physical characteristics (epilepsy and physical impairment) and 2 major emotional characteristics (incompatibility and immature judgment) that determine whether or not a student is qualified for your class activities.

2. Determine which students, in a series of case histories, are physically and emotionally qualified to participate in class activities.

3. Given situations, identify those aspects potentially injurious to a student.

4. Distinguish between the responsibility for use of school-owned equipment and borrowed or privately-owned equipment, as illustrated by a series of examples.

5. Given descriptions and pictures of kinds of equipment, state which are faulty and why.

INTRODUCTION TO LESSON III

Accidents don't just happen; neither do law suits, however, there always may be an allegation that the injury was caused by the defendants' actions. Most accidents are caused by lack of supervision, poor maintenance, unwise selection of activity, insufficient protective devices, and improper facility layout.

Whatever the causes, we tend to blame the injured person for not being careful enough,--and this often is true. But we cannot avoid the responsibility that we owe our pupils, morally as well as legally, more than ordinary care for their safety. Unfortunately, the customary way of doing something may be the negligent way, when judged in a courtroom.

Law cases can be analyzed in a variety of ways. A single case often reveals several negligent acts, such as poor supervision combined with a poor choice of activity. You don't have to read many cases to see that teachers must be aware of individual differences among students. A competent teacher selects and organizes activities in accord with the size, age, and experience of students.

That child in your classroom--the one who looks out of the window most of the day, the one who sometimes "doesn't hear" you, the one who can't resist the urge to poke his classmates as he walks up the aisle, the one who still can't perform the basic skills required for your classroom activities,--what is he? A troublemaker? A nuisance? Possibly, but he also may have a learning disability. School for him is torturing and humiliating. These children have difficulties in more areas than just learning; one is safety. A hyperactive, impulsive child who has the added difficulties of perceptual-motor impairment and inefficient spatial organization has all the makings of an accident-prone child. He bumps into things, he falls over things; he usually has a good share of fights because he is impulsive; he often is incapable of making normal physical contact with another child and his arm will shoot out and inadvertently hit or push another child.

These children respond to <u>pieces</u> of the environment rather than to situations as a whole. For example, although he knows the rules for crossing the street, if he sees a desirable object on the other side, he is apt to go directly to it without paying any attention to rules or procedures. He knows these procedures, but they just don't occur to him at the moment.

Teachers have to be able to recognize children with problems that may affect both their learning capabilities and their safety. The more serious handicaps should have been identified and referred to specialists early in the child's life but this is not always the case. Even so, modern therapy prefers that learning-disability children be kept in the normal classroom whenever possible. Thus you may encounter such children in your teaching experience.

We are concerned particularly with four specific types of problem children because of their particular susceptability to accidents: these are the incorrigible, the physically impaired, those with immature judgment, and the epileptics. Remember that human reactions are highly idividualized, but we still are able to note some typical patterns which justify "a typical description" of the problem.

The Incorrigible Child

Sometimes called emotionally unstable or antisocial, these individuals show outbursts of irritability, temper tantrums, and destructiveness in response to minor frustrations. Their behavior usually is the expression of an underlying, unconscious dependency, and they spread rumors or gossip, throw objects, and bear vindictive grudges. Furthermore, they show little useful energy, narrow interests, have a bad work-history, and often are hypochondriacs.

Their effort response is good but often their intelligence is low and their vocabulary may be poor. They tend to be quick but inaccurate. They often show lack of persistence and their level of aspiration usually is low, but they tend to over-rate their own performance. Their aesthetic preferences are toward colorful, modern pictures and they produce scattered designs.

Very common is the hostile behavior of the child who feels that no one wants him. This child requires much patience and understanding. His life is filled with fear and hatred, and he grows mean and hostile. He is accident-prone.

The Physically-Impaired Child

This child has special problems of adjustment, whether the impairment be temporary or permanent. His handicaps may range from limited use of some part of the body, due to birth defect or injury, to brain damage. Minor brain damage when

not sufficiently severe to produce mental deficiency, convulsive seisures, or gross uncoordination, may result in a restless, overactive child with a short attention span, prone to impulsive behavior and emotional over-reaction.

Physical handicaps, deformities, or gross discrepancies in growth may cause severe adjustment problems and these limitations place him at a disadvantage in group participation. In addition, children are notoriously cruel in exploiting the physical limitations of other children.

One of the common adjustments to physical handicap is compensation, which may be expressed by the over-development of a specific ability, the development of an attitude of bravado, an abnormal desire to excel, or even delinquency or other deviant behavior. These children should not be taxed beyond their capabilities but must be provided with suitable outlets for their energy, both mental and physical. Activity must be selected with care, and carefully supervised.

The Child With Immature Judgment

Sometimes such a child is asked to make judgments requiring more maturity than he has. He often is characterized by dependency and exaggerated needs for affection and social approval. Childish needs are retained and he reacts to frustration with sullenness, pouting, or temper displays. In some instances, he shows false bravado.

These children commonly are overanxious, overconcerned, insecure, inhibited, overconforming, and prone to neurotic illness. If the needs of the child are understood early enough, behavior can be modified. Teachers should be observant and understanding, not pushing this child beyond his capabilities even though he may protest that he is capable.

The Epileptic

There still is controversy whether or not there is a distinctive epileptic personality. These individuals have been described as extremely sensitive and egoistic, having temper tantrums and rages. Most epileptic persons, however, show no evidence of a distinctive personality pattern or a consistent, predictable trend of behavior. The undesirable traits found among some epileptics generally are the result of their social isolation, associated brain conditions, reactions to drugs, or

the results of mental deterioration.

The common visible symptoms are convulsive seizures, gross uncoordination, and often some degree of mental deficiency. Such a child, if he has been diagnosed professionally, is usually on medication to alleviate his symptoms. While enabling him to partake of more normal activity, these drugs themselves may create problems.

It may be difficult to classify the attack in some cases, but most seizures will fit into one of the following five major categories: generalized motor (grand mal), focal, psychomotor, petit mal, and minor motor. Any of these types may occur alone or in combination with others. Sometimes one seizure type is replaced by another in the same individual. A child may "outgrow" petit mal, only to have it replaced with generalized motor (grand mal) attacks or worse.

Grand mal attacks are dramatic and frequently encountered. They may begin suddenly, without warning, and consist of loss of consciousness followed by muscle spasms. During the convulsive phase there may be slowed respiration, tongue biting, and loss of bladder and bowel control. This may last 2-5 minutes. Gradually the victim relaxes, his breathing becomes normal, and he regains consciousness, leaving him drowsy and confused, with possible headache and gastric upset. Any phase of the seizure may be absent or so brief it goes unnoticed. Seizures may occur as frequently as several in a day, or may be as widely spaced as a year or more.

Petit mal should not be interpreted as simply a minor form of grand mal because the difference is in the kind of seizure rather than the degree. These attacks are encountered primarily in childhood, rarely persisting beyond twenty years of age. The attacks are characterized by a sudden brief lapse of consciousness with or without minor motor movements of the eyes, head, or extremities. Falling does not occur, but there may be staggering, drooping of the head, and on rare occasions, loss of bladder control. The attack is brief, lasting 5-30 seconds, following which the victim is immediately alert and able to resume his usual activity. Petit mal occurs with great frequency--upwards of 50-100 times a day. Despite their great frequency, attacks rarely occur in such close succession as to impair consciousness for long periods of time.

Psychomotor attacks alter behavior, perception, or affect. This is the bizarre form. In most instances clouding of consciousness, automatic patterned movements and total amnesia occur. The individual is completely out of contact with his environ-

ment but does not fall. The movements may be simple and brief, such as clapping the hands or smacking the lips, but also may take the form of a sequence of activity such as getting out of a chair and walking across a room and performing a seemingly purposeful activity. On occasion, aimless running, and sudden alteration in behavior are encountered. Aggressive behavior occasionally occurs, but it rarely is violent. The attacks rarely last more than 2-3 minutes and may be followed by a short episode of confusion.

A focal seizure always exhibits convulsive movements starting in a finger or toe and progressing to the rest of the arm, the face, and the leg on the same side of the body. There is no loss of consciousness unless the attack spreads to the opposite side of the body. If this occurs, a generalized grand mal seizure may follow. If the attack remains "contained", it will last about one minute with no aftereffect.

Minor motor seizures last about 5 seconds, occur frequently, and have no aftereffects. Signs of the disorder include a sudden loss of control of all the back muscles so that the child falls and injures his face or head; a sudden involuntary contraction of a group of muscles of the trunk or extremities of sufficient magnitude to move the involved part of the body; disturbed equilibrium; the sudden release of any object being held in the hand; or sudden strong contractions wherein the arms are flung upwards, the head forward and down, and the lower limbs pulled up on the trunk, resulting in a "jack-knife" position. Any of these may be repeated a half dozen times in a few minutes and innumerable times throughout the day.

Doctors recommend that persons afflicted with any form of epilepsy not be allowed to use power machinery or sharp tools, and that they be kept away from heights, to protect them from further harm. Check carefully for medication and frequency of medical care. Remember, the prescribed medications may in themselves create some problems in motor activity and attention, as well as response.

Now you will be presented with a series of four narratives each of which illustrates one of the problem children just described. Listen carefully and then name the specific handicap from the symptoms illustrated. Remember, the four main categories were the incorrigible child, the physically impaired, the child with immature judgment, and the epileptic.

Number 1: A junior girl broke her back jumping off a springboard. She had been excused from parts of physical education in two previous years because of a doctor's request due to an earlier back disability she had suffered. The girl's doctor had, on four separate occasions, requested a list of exercises that the child would be required to perform, for during the current year she had complained of back pain. The latest request had been within a week of the injury. Please classify the child's problem.

Number 2: Glenn is eight years, 11 months of age. He is jealous, belligerent, and violent in class, always wanting to be first, and has tantrums. His mother has had many illnesses, has had to neglect her children, and as a result is very guilty and overprotective. Glenn was the third of four children. The father and the mother are in strong disagreement over Glenn's upbringing for the father disapproves of the mother's protectiveness. He consequently rejects and pubishes Glenn and aiso is suspicious and negative. Further, he accuses the mother of creating a "mamma's boy". It is felt that Glenn's development is arrested and that he maintains a strong early hostile dependency on his mother. He has a long history of fears and resists growing up to the extent that he reacts with violence when his father, teacher, or peers seem to ask or demand more mature behavior of him.

In all his play he has to win at games and maintains an aura of grandiosity about all his wishes and actions.

When Glenn became aware that his present teacher would be leaving at the end of the academic year, he showed his resentment,--the other side of his dependency feelings. Now, during many periods there is undisguised aggression and provocativeness, and he is beginning to complain of stomach distress and vague headaches.

Into which classification would you place this child?

Number 3: A first-grade pupil was cut when she fell off a chair on which she stood to water a plant. The teacher permitted the little girl to use a milk bottle to water the plant and allowed her to climb upon a chair to do so.

The child was only 6 years old and thus could not water the plant when standing on the floor, but needed elevation. Further, on occasions the child seemed to be daydreaming and could not reply to questions following an otherwise spirited discussion period. She sometimes lapsed into brief periods when her head would droop, she would rouse suddenly, shake her head and smile as if bemused by her environment; at such times she would seem quite pale. She was given to demanding attention and thus the teacher allowed her to perform special little duties such as caring for the plants.

What is this child's problem?

Number 4: This boy is well-organized, with a veneer of good manners and with normal intelligence, and also the capacity to create irritations everywhere he goes. He has a history of family offenses and defies anyone to change him. His physical development has been rapid, and since early childhood he has attacked or broken everything within reach. Out of the ensuing struggles, he has developed rapidly as an individual but determined to get what he wants on his own terms. He has been running away since he was four, knowing that through his beguiling manner he always could get money by begging in order to get back home. There are periods when he is very gentle. His hours are full of fight but with the clear statement, "I never start fights myself, but if somebody starts a fight, I can fight good and plenty". He feels no responsibility for any of his aggression.

Please identify the classification into which this student fits.

You now have heard the identified all four problem examples. Let's see if you classified them correctly.

Number 1 was a physically-impaired child. In this true story, the teacher and the school district were held co-negligent. The school board had failed to provide the list as requested by the physician, for the board is bound by "what is known and by that which might have been known" had it exercised ordinary diligence in

providing the requested list. The instructor failed to heed the girl's complaints of back pain and therefore allowed and requested spring-board work which would have been contrary to the doctor's orders.

The list had been requested from the board, hence their liability, and the source of the suit; the teacher also was found negligent by virtue of responsibility for the welfare of the student and prior knowledge of the disability. Medical excuses had been accepted in previous years. The student was not physically suited for the demands of that particular class and should have been excused or at least limited to only those exercises which were to have been approved previously by her physician.

Number 2 is an immature child incapable of the level of mature judgment expected even of one of his age. A typical lawsuit involving such personalities is this true one:

Two 15-year-old boys injured their hands shooting a cannon made with chemicals obtained from school. They had badgered the teacher five or six times for chemicals so he finally gave them some, supposedly for a "fireworks experiment". Several days later, while the teacher was absent from the room, the boys took from the storeroom the chemicals actually used in the accident. The boys were using a mail-ordered pamphlet which strongly indicated the danger. They asked the teacher to supervise their experiment, but he declined due to another commitment.

In the lawsuit the teacher was not held negligent because "voluntary exposure to a known risk" is a defense. The boys were using stolen chemicals knowing the risk involved in their cannon-making. The teacher was admonished, however, for failure to "secure" the stores and for not inquiring into the nature of the experiment which he was asked to supervise. Similar cases have resulted in "attractive nuisance" suits as well as "lack of supervision" charges. These boys assumed that they had the "know-how" to perform such an experiment, when actually they did not. To avoid such occurrences, teachers must be careful to keep such stores under lock and key. The same could be true of power machinery.

Number 3 is a child suffering from epilepsy. Her particular affliction is a manifestation of petit mal, usually seen in childhood only. Teachers always must be on the alert for unusual behavior, particularly any which is unexplained. If

such behavior persists, proper officials and the parents should be notified. Special care must be taken not to allow the child to injure himself or to be injured.

Number 4 is a case study of the remaining category, the incorrigible child. A classic example of a lawsuit which could face a teacher because of such a child is the one in which during the change of classes, a student was attacked by another pupil whose constant quarreling and aggressive behavior toward other students was well known. The legal question became, "Is a teacher liable when one student assaults another?" In this case, the court found negligence because such behavior was reasonably foreseeable and adequate supervision might have prevented it. The teacher therefore was found liable. When one has such a child in class, he requires extra supervision.

We now will analyze several cases relating to two of the conditions described in the previous presentations: physical condition and emotional readiness. Teachers must know when to allow or when to forbid physical activity or any other inherently dangerous activity. Two basic considerations must be the physical and emotional capabilities of the student such as: his size, age, health, general condition, maturity, willingness to follow directions, comprehension, ability to concentrate, as well as respect for rules and regulations.

Case 1: A student was kicked in the head by another during a supervised soccer game and suffered serious injury. The teams were "volunteers" of varying ages and were not all from the same grade or grades. The boy who was injured was a 12-year-old seventh grader playing in the gymnasium during the noon hour under the supervision of a physical education teacher. Twenty boys were on each side of the gym, about 75 feet apart with a ball in the middle. Each boy was assigned a number; when the instructor called a number, that boy ran full speed to the middle and attempted to kick the ball over the opponents' goal line. The opponent who inflicted the injury was 6 feet tall, weighing 160 to 180 pounds. The injured boy suffered a concussion and complications followed. He was hospitalized for four days. Was anyone negligent? If so, who and why? If not, please explain.

Fact: The court held for the injured boy. Both the Board and the supervising teacher

were held liable: The Board because it assumed competence on the part of the teacher; the teacher being held doubly negligent because he allowed both a hazardous game and unmatched opponents.

Case 2: A high school girl, while attempting to do a compulsory "roll-over-two" gymnastic exercise in her tumbling class was injured, resulting in a skull fracture, due to improperly executing the exercise. The physical education teacher did not give the instruction herself, but had two advanced students in the class demonstrate to the girl. Evidence showed that the injury was caused by not doing the exercise properly; she bent her arms so that her hands and head hit the floor at the same time. In doing this exercise she had fallen many times before finally being injured; too, she had a bad knee. This the instructor knew.

Who was liable and what was the determining circumstances?

Fact: The injured girl recovered damages, the case being decided upon the jury's decision that the exercise itself was not a suitable one for the mental and physical condition of the girl. The advanced students were found not to have given improper instruction. The teacher was found negligent and thus liable by virtue of improper judgment of the girl's readiness for such participation.

Remember: Since sometimes an activity becomes inappropriate and injury occurs because the participants have not had adequate instruction, always be sure that such preparation is completed and that the student fully understands the instructions before allowing him to proceed, whatever the activity or the age of the student.

Case 3: Bill was a child for whom rest periods and transition times between activities in school were particularly difficult. He became hypertalkative and restless when it seemed that inner thoughts could not be fully or directly discharged. At times he would look tired, sad, gloomy, and lost. Often he would seem on the verge of tears when he thought he was unobserved. He alternated between being the school extrovert and a moody youngster who sometimes said, "I'm just not happy any time any more". His parents were in the process of a long, bitter divorce suit.

His teachers, while perplexed and sometimes annoyed by his behavior, felt sorry for what seemed to be a depressed child. Therefore they allowed this boy, upon

completion of examinations during the last period of school to go outside, on the school grounds, to await his school bus.

There were two older students, members of the safety patrol, already out there. When busses began to arrive, the two older boys left him to his own devices, during which time on the school lawn near a sidewalk he became engaged in a scuffle with some pupils now leaving the building. In the altercation, he was pushed to the ground. A bicycle ridden on the sidewalk by another older student hit him as he was falling, so that he sustained a fracture of the skull and a brain injury, possibly caused by the projection of the front wheel of the bicycle.

Who was liable for Bill's injury? Please explain why you feel as you do. Fact: The teacher in charge of the class from which Bill had been allowed to leave was found to be negligent on two counts: lack of foreseeability, based particularly on Bill's present emotional condition, and careless supervision. Courts are most likely to find school personnel liable if the students involved are left unsupervised. Teachers are expected to foresee and prevent the possibility of students' injuring one another, --even in play. Experienced teachers recognize that children can be mischievous, thoughtless, and even destructive, and are alert to anticipate indiscretions and head them off. Bill should not have been allowed to leave the building until his class was dismissed at the close of the school day.

The presence of the safety patrol members was insufficient to guarantee his well-being since they were assigned to specific duties at the school crossings and were not responsible for activities between the school and the bus-loading area. Remember: Careless supervision of students and lack of foreseeability usually are subject to harsh treatment in court, therefore it is important that teachers know how to protect themselves from this charge.

Case 4: Tim was a constant troublemaker in his high school classes, and he rarely completed any of his school work. He nearly always came to class late, announcing his arrival by various noisy means: pinching other students, tripping loudly over chairs, yelling, and whistling. He often came in wearing some outlandish clothing, such as a hat with ostrich plumes, or a red shirt with Christmas tree decorations. Once seated he would begin a series of annoying actions,--banging his desk top, shifting his chair, going to the pencil sharpener and poking other students in transit, or yelling

loudly. He rarely made any effort to study or do his work.

Tim had been ordered expelled from school, but the principal agreed to allow him to stay for a trial period to see if a change in his behavior could be effected by working with a mental health consultant. The chemistry teacher, an eager young woman, agreed to help and the project began in her class.

Tim attended class and seemed interested in the assignments, even volunteering to assist the teacher set up and clear away the experiments. He seemed to have found something which was a challenge and a teacher who liked him. She began to relax her vigilance for he seemed to behave much as did the rest of the class.

One day while Tim was supposed to be setting out the materials for an experiment, there was an explosion in the laboratory. Tim's hands and eyes were severly damaged. Investigation showed that Tim had tried the experiment but used the wrong ingredients, by mistake or otherwise, and deviated from the method described in the textbook.

Was Tim to blame for his own injuries? Did the teacher have a responsibility for what occurred? How would you have decided this case? Please explain.
Fact: The courts held for the injured pupil, Tim. He was known to be a discipline problem with an unstable personality; the fact that for a short period he had "seemed normal" was insufficient reason for the teacher to be lax in supervision.

Too, the teacher had failed to instruct Tim in the procedures for the experiment, merely handing him the manual so he could select the chemicals needed.
Remember: Science teachers function in an area that is inherently dangerous and have a duty to do whatever is necessary to prevent mishaps in their classrooms. Such teachers must instruct their pupils properly on how to conduct laboratory experiments, warn of dangers that may arise, and keep close supervision over the activities.

Tim's case was aggravated by his general sense of irresponsibility and desire to be the center of attention. The teacher should have recognized him as such and have used better judgment in her selection of activities for him and in her supervision of him.

You now will be presented with some situations and asked to identify those

aspects potentially injurious to the student. Listen carefully so that you will be able to identify those dangerous areas or activities which might contribute to an accident.

SITUATION 1: The day was rainy and the outside door opening into the vestibule of the school building had remained open all day. About a quarter inch of dirty water had accumulated on the terrazzo floor. Although rubber mats were in general use at the other entrances to the building, none was in use at this entrance. School officials had noticed the open door, and the custodian had mopped the floor several times in the hour before the accident. A 15-year-old boy slipped and fell.

Please list those factors which you feel contributed to the accident. Further, do you believe there was evidence of negligence?

Facts: Terrazzo floors are impervious to water and are very slippery when wet.

Water was known to be accumulating on the floor during the day.

It was customary to use mats on these floors during rainy weather, as mopping does not totally eliminate the slipperiness of the floors.

Mats were in use at other entrances.

No mat was placed at this entrance.

Verdict: The court found sufficient evidence to present an issue of negligence, and found the school district and the administration responsible.

Remember: Teachers should be on the alert for similar possibilities in their teaching or supervisory areas.

SITUATION 2: An 11-year-old girl was injured while performing on the rings during a school gymnastics class. The girl was injured in the process of jumping backwards out of the rings, something she had done on numerous occasions and had seen other students do without objection from the teacher. The teacher never had demonstrated any stunts on pieces of apparatus and the girls were not restricted as to what they might do on the rings, with a few minor exceptions, and student spotters--who were assigned to break a fall should a mishap occur--never were instructed on how they were to perform. Further, the state syllabus required that "the apparatus and the class should be so placed as to be entirely in view of the teacher". The teacher did not see the fall. The teacher also admitted that the rings were dangerous and that students

"could kill themselves".

Please enumerate the inherent dangers which could have led to the accident, and determine whether the teacher should be held liable for this child's injury, and why.

Facts: Jumping backwards out of the rings had been executed by others without objections from the teacher.

The girl also had done so on numerous occasions prior to the accident.

The teacher failed to demonstrate any stunts on pieces of apparatus.

Girls were, with few minor exceptions, unrestricted in their use of the rings.

Students spotters were on duty, but never had been instructed as to how to perform in the event of a fall.

The teacher evidently was not supervising the rings for she did not see the fall.

The teacher was aware of and had admitted the dangers of ring activity.

State regulations required full visual supervision.

Verdict: The court found the teacher negligent based on the fact that the teacher failed to observe the actions of the child because the teacher's back was turned, contrary to the state physical education syllabus. The interesting fact is that although it was the school board that was sued, it was the teacher who was found negligent, and obviously the other contributory elements were factors in this decision.

Remember, three basic requirements are placed on any teacher: adequate instruction prior to activity, warning a participant of dangers related to an area of activity, and supervision.

SITUATION 3: An accident took place when a pupil, not a member of the class in session, was using an acetylene torch to repair his own automobile in the school industrial arts shop.

Two bonafide members of the class paused to watch the repair work when a spark from the torch set off an explosion of the gas tank. The tank had been removed from the vehicle being repaired and placed a short distance away. The explosion caused the death of one pupil and serious injuries to the other. The boy operating the torch received only minor injuries. The teacher in charge seemed to be unaware of the presence of the boy doing the welding. The teacher and the district claimed that the accident was unavoidable and that the injured pupils had been contributorily

negligent.

Please record the critical incidents which would have caused the accident and led to the suit. How would you decide? Should the teacher have been charged with negligence? Why?

Facts: The boy doing the welding was not a member of the class in session.

The boy was repairing his own automobile using school facilities and equipment.

The two victims were members of the class in session and were casual bystanders.

The gas tank of the vehicle exploded due to a spark from the torch.

The tank had been removed, but placed only a short distance away.

The teacher was not properly supervising; he was unaware of the boy doing the welding and also of the fact that two of his students were near this activity.

Verdict: The court found the teacher negligent stating that he had failed to enforce the rules and regulations of safety in the auto shop and failed to supervise the boy with the torch. The claim of contributory negligence was denied.

The points to remember are--a teacher is expected to possess foreseeability, to enforce rules and regulations, and to supervise.

Lost-Time Injury Case #1

Student:	Gene W. Bowman
Date:	January 21, 1969
Time:	Accident occured at 10:15 a.m.
Accident:	Loss of three fingers on left hand
Equipment Involved:	Jointer
Treated:	Kitsap County Hospital
Physician:	Dr. C. H. J.
Time Lost From School:	4 weeks

Upon returning to school, Gene's parents filed a tort liability suit naming the teacher and the Union High School District No. 1 as the defendants.

The investigation revealed that the jointer knives were dull and that this was a factor contributing to the accident for mechanical failure or malfunction of a machine used in a school shop is unusual if proper maintenance is enforced.

The investigation also determined that the jointer was owned by the teacher and was brought into the shop by the teacher without the permission of the school board. The teacher had given thorough safety instructions on the safe operation of

the jointer and all other safety precautions had been taken.

FROM WHAT YOU HAVE LEARNED ABOUT TORT LIABILITY, WRITE A SHORT PARAGRAPH INDICATING WHO SHOULD BEAR RESPONSIBILITY FOR THIS INJURY AND WHY.

Lost-Time Injury Case #2

Student:	Joseph Dutcher
Date:	March 6, 1968
Time:	Accident occured at 2:25 p.m.
Accident:	Loss of two fingers on right hand
Equipment Involved:	Power circular saw
Treated:	Shasta County Hospital
Physician:	Dr. A. W. C.
Time Lost From School:	4 weeks

Upon returning to school, Joseph's parents filed a tort liability suit naming the teacher and Shasta Union High School District as the defendants.

Investigation revealed that the saw was in good repair and that all required guards were available for the student's use. The teacher had a well-established and supervised safety program. During the demonstration on the operation of each machine the safety regulations were strongly pointed out and safety tests were given and passed at a grade of 95 percent correct before a student was allowed to operate the machine. Close supervision to check for correct machine operation was maintained by the teacher. The saw was owned by the school district.

Further investigation indicated that the accident was due to an unsafe act by the student; he had failed to replace a guard that had been removed because it could not be in place for a previous operation.

FROM WHAT YOU HAVE LEARNED FROM TORT LIABILITY, WRITE A SHORT PARAGRAPH INDICATING WHO SHOULD BEAR RESPONSIBILITY FOR THIS INJURY AND WHY.

Please refer to the two framed photographs:

This list of regulations and safety procedures for machine operation is posted near the equipment in the two pictures. Analyze the photos, and then list the regulations that have been violated. Refer to the violation by number.

BASIC REGULATIONS FOR MACHINE OPERATION

1. Do not brush away chips with your hands. Always use a brush.
2. Store all wrenches and tools in the tool storage rack before starting lathe.
3. Wear short-sleeved shirts or rolled-up sleeves. Do not wear loose clothing around the lathe.
4. Never make adjustments when the lathe is in operation.
5. Keep hands away from the cutting tool.
6. Only one person should operate the machine.
7. Concentrate on your work. Do not talk to others while operating a machine.
8. Wear proper eye protection.
9. Remove all rags and other items from the immediate work area.
10. Remove all watches, rings, and other jewelry before operating equipment.
11. Never lean against or sit on a machine, whether it is running or not.

Now that you know the safety rules, write your description of what is wrong in pictures #1 and #2.

First-Aid and its Relationship to Tort Liability

EPILOGUE TO LESSON III

The question often is raised, "Can I be sued if I render first aid?" This is a question seldom treated in any of the texts. However, I am sure that it must be in the minds of all who at sometime or other may have to administer first aid, or emergency care of some type. Hopefully, first-aiders will continue to provide this needed and valuable service, but we are concerned with the problem of negligence, and negligence is a complex and often confusing issue. To refresh your memory, negligence is defined as "the failure to act as a reasonably prudent person would act under the particular circumstances".

Let's discuss the two critical parts of this definition. First the words, "failure to act": negligence, you will recall, consists of acts of commission or omission. If one fails to do something expected of him by law, he can be judged negligent, and I should like to reaffirm that the law does expect first aid to be rendered to injured students by teachers, as well as to the general public by police and firemen and to traffic accident victims by those involved. It should be pointed out, however, that there is no law requiring anyone to assist a stranger. Certain occupations do require first aid training and the administering of proper first aid to the injured, and teaching is one of these.

Second in our definition comes the phrase, "a reasonably prudent person". A volunteer first-aider offering assistance to an injured person must use reasonable care. A victim may sue a first-aider but such suits are virtually non-existent and almost always are thrown out of court. Courts are loathe to permit an injured person to collect liability damages from one who tried to assist or rendered aid, unless there was definite evidence of willful carelessness or misconduct while handling the injured person.

The standards for a reasonably prudent first-aider to follow are those procedures that can be found in any Red Cross manual or Boy Scout handbook. If, however, a first-aider should invent his own procedures and techniques for treating an injury, then negligence might be found.

Here are six guidelines which may be used by any first-aider:

1) A person is under no legal obligation to assist any injured person whom he

meets. The exceptions are in certain occupations where it is part of one's job to render first aid or in traffic accident situations.

2) When a first-aider gives help, he must do so with reasonable skill in order to avoid further injury to the already existing injury.

3) A person can volunteer first aid but no one can order or compel a first-aider to render aid.

4) The first-aider should remain with the victim after starting emergency care until the injured is turned over to a doctor or another qualified first-aider such as an ambulance technician, for example, or to a relative.

5) The first-aider should use standard first aid techniques, not his own invented procedures or methods.

6) A person never should force treatment on anyone except in three critical emergency situations: severe bleeding, absence of breathing, and poisoning.

Following these simple guidelines should provide adequate protection against suit or being found liable in the event that you have had to administer first aid.

YOU BE THE JUDGE

Lesson III Worksheet

Physical and Emotional Impairment:

Number 1. _____

Number 2. _____

Number 3. _____

Number 4. _____

Physical and Emotional Qualifications:

Case 1. _____

Case 2. _____

Case 3. _____

Case 4. _____

Potentially Injurious Situations:

Situation 1. _____

_____

Situation 2. _____

_____

Situation 3. _____

_____

Lost-Time Injury Case #1

Lost-Time Injury Case #2

Violations of Safety Rules

Picture #1	Picture #2
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

The Teacher and Liability

Booklet # _____

DO NOT WRITE ON THIS EXAM BOOKLET

Directions:

1. On the IBM answer sheet provided, record:
   a. your name
   b. the date
   c. last name of your instructor
2. There are forty-four questions in this examination. When you have selected the ONE BEST answer, blacken the corresponding space on the answer sheet with a No. 2 pencil. If you change your mind, erase your first mark completely.

- - - - - - - -

1. If a lien is put against your wages to collect for damages, it was because you:
   1. none of these
   2. were in loco parentis
   3. caused tort
   4. acted with foreseeability
   5. abrogated

2. Of the 8 obligations imposed on a teacher when an accident occurs, which of the following holds the first priority?
   1. keep order
   2. get names and statements from witnesses
   3. give immediate care to the injured
   4. ascertain extent of injury or damages
   5. notify the proper authorities

3. One of the eight obligations imposed on a teacher when an accident occurs is to file a report. What obligation would follow this action?
   1. notify the proper authorities
   2. keep order
   3. none of these
   4. secure the scene
   5. get the names and statements from witnesses

4. Of the 8 obligations imposed on a teacher when an accident occurs, which of the following should be done after order is established?
   1. notify school authorities
   2. put up a "no admittance" sign
   3. none of these
   4. ascertain extent of the injuries
   5. administer first aid

5. To be legally qualified as a teacher as defined by the Iowa State Department of Public Instruction, one must:

   1. have a teaching contract
   2. both 4 and 5 are correct
   3. have attended college
   4. hold a valid secondary-level teaching certificate
   5. have an approval statement which specifically qualifies him for teaching in a stated subject area

6. An attractive nuisance is: (choose the most correct)

   1. Dangerous property that could lead to an accident
   2. any dangerous apparatus, contrivance, unguarded area, building or conditon of land which a pupil may be expected to use or on which he is likely to play
   3. 1 and 2 are correct
   4. a legal wrong committed on the property of another person
   5. an event which takes place without one's foresight or expectation

7. It would be correct to say that nonfeasance is the:

   1. failure to appear in court
   2. science of law and law making
   3. involvement leading to the formulation or enactment of laws
   4. nonperformance of some act that one is legally bound to perform
   5. none of the above

8. Which of the following statements would be <u>correct</u> when dealing with the term misfeasance?

   1. to make fearful, suspicious or doubtful
   2. performance of a lawful act in an unlawful or culpable manner
   3. concealment of a crime, especially in the area of tort liability
   4. to give an incorrect or false representation to a pupil
   5. creating intense mental or emotional anguish

9. Legal wrong committed on the person or property of another is defined as:

   1. none of these
   2. tort
   3. nonfeasance
   4. attractive nuisance
   5. proprietary function

10. A teacher <u>might</u> be absolved from liability if a careless act of the injured person was at least partly the cause of the accident. (In the case of the teacher, the age of the victim also might be considered). This is the principle of:

   1. nonfeasance
   2. contributory compensation
   3. workman's compensation
   4. all of the above
   5. contributory negligence

11. Which of the following characteristics is NOT one required of a reasonable and prudent student?

    1. is concerned about the safety, comfort and welfare of others in accordance with his age and educational level
    2. willing to abide by rules
    3. takes care of equipment
    4. plans ahead
    5. establishes meaningful and workable rules of conduct

12. A reasonable and prudent student will have varying characteristics depending upon his age.

    1. true
    2. false

13. Obtaining signed parental consent for a student to take part in a school activity has some advantages. Which of the following statements regarding this procedure is NOT true?

    1. it provides the parent with an opportunity to make the teacher aware of any existing condition that may make the activity inadvisable for that student.
    2. it protects the teacher and the school from liability if the student is injured.
    3. it tends to discourage the suit-conscious parent
    4. it keeps the parent better informed of the student's activities in school

14. It is possible to be reasonable and prudent without demonstrating foreseeability.

    1. true
    2. false

15. Which example best illustrates foreseeability?

    1. the teacher explained the field trip to the class the day before
    2. the teacher sent a memo to the school principal describing the field trip
    3. a note was sent home to parents explaining the field trip and asking for their signed consent for the trip
    4. any of the above
    5. the teacher called each parent to explain a field trip

16. A housewife was substituting for her friend who taught home economics the day a student was scalded with hot water. The housewife had a teaching certificate endorsed for language arts. Was the housewife legally qualified to substitute in home economics?

    1. Yes
    2. No

17. The possession of a valid teaching certificate legally qualifies one to teach in the state of Iowa.

    1. true
    2. false

18. Which of the following statements is NOT true?

    1. It is a principle of law that one cannot waive another's (including a teacher's or a school district's) liability for injury in an accident that has not yet occurred by signing a waiver.
    2. To have a teacher's actions considered negligent, it would have to be shown that there was a lack of the reasonable care a careful and prudent person would exercise to protect the student.
    3. In some states a school district may be held immune from civil liability; in others a civil suit may be brought against the school district.
    4. If group accident insurance is purchased by or through the school district to protect the pupils, and a pupil receives compensation for an accident, a teacher then cannot be legally required to pay damages for the same accident.

19. The school board president as the highest elected school official is the person who must assume ultimate responsibility for tort liability.

    1. true
    2. false

20. When a teacher has requested that faulty wiring in a shop be replaced, but continues to use it and an accident occurs, liability is most apt to be placed on:

    1. the superintendent
    2. the principal
    3. the school maintenance crew
    4. the teacher
    5. the school board

21. If you are in the process of keeping order after an accident and you feel you have to use force to restrain other students, you must guard against striking a student so that you won't be guilty of:

    1. malfeasance
    2. nonfeasance
    3. in loco parentis
    4. tort
    5. misfeasance

22. If an accident was caused by an attractive nuisance, and you were carrying out the eight obligations of a teacher after the accident occurred, which of the eight would most effectively keep the nuisance from causing further accidents?

    1. secure the scene
    2. get names of witnesses
    3. file a report
    4. keep order
    5. give immediate care to the injured

23. One is not under a legal duty to go to the aid of another unless he is in some way at fault in causing his injury, or unless there is some definite relationship between the parties that is regarded as imposing a duty to act.

1. true
2. false

24. A "reasonable and prudent student" is responsive to suggestions from the teacher.

1. true
2. false

25. All equipment in use, regardless of who owns it, must be covered by a written contract between the teacher and the owner.

1. true
2. false

26. To "exist", a contract related to the use of school and non-school equipment, must be written.

1. true
2. false

27. The type of machine or equipment on which a pupil is injured has a significant effect on the extent of teacher liability.

1. true
2. false

28. From a teacher liability standpoint, students must not be allowed to use machines that are potentially hazardous.

1. true
2. false

29. As long as teachers have made students aware of certain hazards (having long hair that may get caught in the machinery or long sleeves on lab coats) he is not responsible for accidents.

1. true
2. false

30. Obtaining school board's approval for use of privately owned equipment releases a teacher from the possibility of a charge of negligence.

1. true
2. false

31. A teacher cannot be held liable for an accident involving the use of a piece of equipment owned by an injured student.

1. true
2. false

32. If a teacher rents his own equipment to the school, he is not liable for accidents it may cause.

1. true
2. false

33. A child who is often pale, bemused, demands attention, daydreams, and is detached at times, has the characteristics of:

1. immature judgment
2. epilepsy
3. physical impairment
4. incorrigibility
5. any of the above

34. A child who is belligerent, violent, jealous, has tantrums, wants to be first, and exhibits hostile dependency towards its mother has the characteristics of:

1. immature judgment
2. epilepsy
3. hyperkinesia
4. incorrigibility
5. physical impairment

35. Which of the following would be considered as major physical characteristics which could limit or prevent a student's participation in class activities?

1. ABCDEF
2. ABEF
3. BE
4. CDF
5. DF

A incompatibility
B epilepsy
C aggression
D senility
E physical impairment
F immature judgment

36. Which of these conditions may be modified with appropriate medication?

1. incorrigibility
2. physical impairment
3. immature judgment
4. epilepsy
5. any of the above

37. A student who is emotionally unstable, antisocial, and has temper tantrums is:

1. incorrigible
2. physically impaired
3. one with immature judgment
4. epileptic
5. none of the above

38. Only those machines that may be potentially hazardous should be covered with a written contract.

1. true
2. false

39. Which of the following conditions would be considered potentially injurious?

1.	ACDE	A	an oil spill
2.	ABCD	B	flammable liquid in plastic containers
3.	ABCDE	C	storage of heavy equipment in a high place
4.	ACE	D	classroom power controlled by a main master switch
5.	BCE	E	dull tools

40. An accident took place when a pupil, who was not a member of the class in session, was using an acetylene torch to repair h s own automobile in the school industrial arts shop. Two bonafide members of the class paused to watch the repair work when a spark from the torch set off an explosion of the gas tank. The explosion caused the death of one pupil and serious injuries to the other. The boy operating the torch received only minor injuries. The teacher in charge seemed to be unaware of the presence of the boy doing the welding. The teacher and the district claimed that the accident was unavoidable and that the injured pupils had been contributorily negligent. Would a court of law most likely agree or disagree with this claim?

1. agree
2. disagree

41. The legal basis for teacher liability for pupil injury lies in:

1. board of education regulations and school rules
2. municipal ordinances
3. Federal law
4. State law and court decisions
5. none of the above

42. A child who has good manners, normal intelligence, is irritating and defiant, developed rapidly yet retained a beguiling childlike manner, feels no responsibility for his acts of aggression, always blames others, and is determined to get what he wants on his own terms has the characteristics of:

1. incorrigibility
2. physical impairment
3. immature judgment
4. epilepsy
5. precosity

43. An injured pupil and his parents have the legal right of redress in money damages for injuries incurred in connection with any school activity.

1. true
2. false

44. A student was seriously injured using a piece of equipment in the school. It was established that proper instruction in the use of the piece of equipment had been given and understood. The teacher and the district were named as jointly responsible in a suit filed on the boy's behalf. Actually, the board was unaware of the equipment's presence and therefore the teacher alone was responsible.

1. true
2. false

AUDIO-TUTORIAL BUDGET

Date	Porters	E & I	Mid-West Visual	Printing	Book Store	Photo Service	World Color Prod.	Ames Stationers	Media Resources	Safety Educ.	Central Stores	Dept. Charges	Balance
1971													$2168.00
May, '71	26.11												2141.89
June, '71		80.98	430.42										1630.49
July, '71			463.00										1167.49
Oct., '71			167.58	20.74									979.17
Dec., '71	6.09				6.83								966.25
Jan., '72						25.92							940.33
Feb., '72						1.60							938.73
Mar., '72						3.70							935.03
May, '72							99.73						835.30
June, '72			284.20										551.10
Oct., '72								19.51					531.69
Oct., '73									7.50				524.09
Nov., '73										4.94	48.12		471.03
Dec., '73									2.20			129.55	339.28
Jan., '74									4.40			167.87	167.01
Feb., '74				12.00									155.01
May, '74					23.40								131.61
July '74					31.50								100.11
Oct., '74					16.00								84.11
Nov., '74											11.36		72.75 **
	32.20	80.98	1345.20	32.74	77.73	31.22	99.73	19.51	14.10	4.94	59.48	297.42	

* Will be used for duplication of report

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